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असाधारण
EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (II)
PART II—Section 3—Sub-Section (ii)

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं. 582] नई दिल्ली, शुक्रवार, सितम्बर 4, 1992/भाद्र 13, 1914
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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

गृह मंत्रालय

अधिसूचना

नई दिल्ली, 4 सितम्बर, 1992

का.आ. 657 (अ) :- यतः केन्द्रीय सरकार ने विधि विरुद्ध क्रियाकलाप (निवारण) अधिनियम, 1967 (1967 का 37) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के गृह मंत्रालय की अधिसूचना सं.का.आ. 140 (अ) तारीख 18 फरवरी, 1992 द्वारा जम्मू व कश्मीर लिबरेशन फ्रंट को, जिसके अन्तर्गत, विदेश में उनके रहनुमाओं के सहयोग से भारत में कार्यरत उसका सदस्य, कार्यकर्ता सशस्त्र गुट और समर्थक शामिल है, विधि विरुद्ध संगम घोषित किया था ;

और यतः केन्द्रीय सरकार ने, उक्त अधिनियम की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के गृह मंत्रालय की अधिसूचना सं.का.आ. 203 (अ) तारीख 12 मार्च, 1992 द्वारा विधि विरुद्ध क्रियाकलाप (निवारण) अधिकरण का गठन किया था जिसमें

दिल्ली उच्च न्यायालय के न्यायाधीश न्यायमूर्ति श्री अरुण बी. सहार्या थे;

और यतः केन्द्रीय सरकार ने उपरोक्त अधिनियम की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त अधिसूचना 16 मार्च, 1992 को उक्त अधिकरण को यह न्यायनिर्णीत करने के प्रयोजन के लिए निर्देशित की थी कि उक्त संगम को विधि विरुद्ध घोषित करने का पर्याप्त हेतु है या नहीं;

और उक्त अधिकरण ने, उक्त अधिनियम की धारा 4 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए 29 मई, 1991 को एक आदेश किया था, जिसमें अधिसूचना सं.का.आ. 140 (अ) तारीख 18 फरवरी, 1992 में की गई घोषणा की पुष्टि की गई थी;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 4 की उपधारा (4) के अनुसरण में उक्त आदेश को प्रकाशित करती है, नामतः :-

[सं. 13014/6/92-के(डी ओ-1)]

मधुकर गुप्ता, संयुक्त सचिव

MINISTRY OF HOME AFFAIRS

NOTIFICATION

New Delhi, the 4th September, 1992

S.O. 657(E).—Whereas the Central Government in exercise of the powers conferred by sub-section (1) of Section 3 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967), declared the Jammu and Kashmir Liberation Front including its members, activities, armed groups and sympathisers working inside India in collaboration with their masters abroad as unlawful association vide notification of the Government of India in the Ministry of Home Affairs No. S.O. 140(E) dated the 18th February, 1992;

And, whereas, the Central Government in exercise of the powers conferred by sub-section (1) of section 5 of the said Act, vide notification of the Government of India in the Ministry of Home Affairs No. S.O. 203(E), dated the 12th March, 1992, constituted the Unlawful Activities (Prevention) Tribunal, consisting of Shri Justice Arun B. Saharya, Judge of the Delhi High Court;

And, whereas, the Central Government in exercise of the powers conferred by sub-section (1) of section (4) of the aforesaid Act, referred the said notification to the said Tribunal on the 16th March, 1992 for the purpose of adjudicating whether or not there was sufficient cause for declaring the said association as unlawful;

And, whereas, the said Tribunal, in exercise of the powers conferred by sub-section (3) of section 4 of the said Act made an order on the 12th of August, 1992 confirming the declaration made in the notification No. S.O. 140(E), dated the 18th February, 1992;

Now, therefore, in pursuance of sub-section (4) of section 4 of the said Act, the Central Government hereby publishes the said Order, namely:—

ORDER

BEFORE THE UNLAWFUL ACTIVITIES (PREVENTION) TRIBUNAL

IN RE:

Jammu and Kashmir Liberation Front (JKLF)

CORAM:

Hon'ble Mr. Justice Arun B. Saharya.

PRESENT:

Union of India through Mr. Madan Lokur, Advocate.

State of Jammu and Kashmir through Mr. Permod Kohli, Advocate.

JKLF—Ex-parte.

JUDGMENT

In exercise of the powers conferred under sub-section (1) of Section 3 of the Unlawful Activities (Prevention) Act, 1967 (hereinafter called the Act), the Government of India in the Ministry of Home Affairs, by notification No. S.O. 140(E) dated 18th of February, 1992, declared Jammu and Kashmir Liberation Front (hereinafter referred to as JKLF) to be an unlawful association. The Government of India, in pursuance of the requirement under the sub-section (1) of Section 4 of the Act has made this reference to the Tribunal.

The reference has been made to the Tribunal for adjudicating whether or not there is sufficient cause for declaring the association unlawful.

The Act was passed to provide for the more effective prevention of certain unlawful activities of individuals and associations and for matters connected therewith. It extends to the whole of India including the State of Jammu and Kashmir. The Unlawful Activities (Prevention) Rules, 1968 were made by the Central Government under Section 21

of the Act. The relevant provisions made in the Act and in the Rules are reproduced below:—

A. Act:

"2. "In this Act, unless the context otherwise requires—

(a) "association" means any combination or body of individuals;

(b) * * * * *

(c) * * * * *

(d) "secession of a part of the territory of India from the Union" includes the assertion of any claim to determine whether such part will remain a part of the territory of India;

(e) * * * * *

(f) "unlawful activity", in relation to an individual or association, means any action taken by such individual or association (whether by committing an act or by words, either spoken or written, or by signs or by visible representation or otherwise),—

(i) which is intended, or supports any claim, to bring about, on any ground whatsoever, the cession of a part of the territory of India or the secession of a part of the territory of India from the Union, or which incites any individual or or groups of individual to bring about such cession or secession;

(ii) which disclaims, questions, disrupts or is intended to disrupt the sovereignty and territorial integrity of India;

(g) "Unlawful association" means any association—

(i) which has for its object any unlawful activity, or which encourages or aids persons to undertake any unlawful activity, or of which the members undertake such activity; or

(ii) * * * * *

3. (1) If the Central Government is of opinion that any association is, or has become, an unlawful association, it may, by notification in the Official Gazette, declare such association to be unlawful.

(2) Every such notification shall specify the grounds on which it is issued and such other particulars as the Central Government may consider necessary.

Provided that nothing in this sub-section shall require the Central Government to disclose any fact which it considers to be against the public interest to disclose.

(3) No such notification shall have effect until the Tribunal has, by an order made under section 4, confirmed the declaration made therein and the order is published in the Official Gazette:

Provided that if the Central Government is of opinion that circumstances exist which render it necessary for that Government to declare an association to be unlawful with immediate effect, it may, for reasons to be stated in writing, direct that the notification shall, subject to any order that may be made under section 4, have effect from the date of its publication in the Official Gazette.

4. * * * * *

4. (1) Where any association has been declared unlawful by a notification issued under sub-section (1) of Section 3, the Central Government shall, within thirty days from the date of the publication of the notification under the said sub-section, refer the notification to the Tribunal for the purpose of adjudicating whether or not there is sufficient cause for declaring the association unlawful.

- (2) On receipt of a reference under sub-section (1), the Tribunal shall call upon the association affected by notice in writing to show cause, within thirty days from the date of the service of such notice, why the association should not be declared unlawful.
- (3) After considering the cause, if any, shown by the association or the office-bearers or members thereof, the Tribunal shall hold an inquiry in the manner specified in section 9 and after calling for such further information as it may consider necessary from the Central Government or from any office-bearer or member of the association, it shall decide whether or not there is sufficient cause for declaring the association to be unlawful and make, as expeditiously as possible and in any case within a period of six months from the date of the issue of the notification under sub-section (1) of section 3, such order as it may deem fit either confirming the declaration made in the notification or cancelling the same.
- (4) The order of the Tribunal made under sub-section (3) shall be published in the Official Gazette.
5. (1) The Central Government may, by notification in the Official Gazette constitute, as and when necessary, a tribunal to be known as the "Unlawful Activities (Prevention) Tribunal" consisting of one person, to be appointed by the Central Government:
- Provided that no person shall be so appointed unless he is a Judge of a High Court.
- (2) If, for any reason, a vacancy (other than a temporary absence) occurs in the office of the presiding officer of the Tribunal, then, the Central Government shall appoint another person in accordance with the provisions of this section to fill the vacancy and the proceeding may be continued before the Tribunal from the stage at which the vacancy is filled.
- (3) The Central Government shall make available to the Tribunal such staff as may be necessary for the discharge of its functions under this Act.
- (4) All expenses incurred in connection with the Tribunal shall be defrayed out of the Consolidated Fund of India.
- (5) Subject to the provisions of section 9, the Tribunal shall have power to regulate its own procedure in all matters arising out of the discharge of its functions including the place or places at which it will hold its sittings.
- (6) The Tribunal shall, for the purpose of making an inquiry under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—
- (a) the summoning and enforcing, the attendance of any witness and examining him on oath;
 - (b) the discovery and production of any document or other material object producible as evidence;
 - (c) the reception of evidence on affidavits;
 - (d) the requisitioning of any public record from any court or office;
 - (e) the issuing of any commission for the examination of witnesses.
- (7) Any proceeding before the Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code and the Tribunal shall be deemed to be a civil court for the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure 1988.
6. (1) Subject to the provisions of sub-section (2), a notification issued under section 3 shall, if the declaration made therein is confirmed by the Tribunal by an order made under section 4, remain in force for a period of two years from the date on which the notification becomes effective.
- (2) Notwithstanding anything contained in sub-section (1), the Central Government may, either on its own motion or on the application of any person aggrieved at any time, cancel the notification issued under section 3, whether or not the declaration made therein has been confirmed by the Tribunal.
9. Subject to any rules that may be made under this Act, the procedure to be followed by the Tribunal in holding any inquiry under sub-section (3) of section 4 or by a Court of the District Judge in disposing of any application under sub-section (4) of section 7 or sub-section (8) of section 8 shall, so far as may be the procedure laid down in the Code of Civil Procedure, 1908, for the investigation of claims and the decision of the Tribunal or the Court of the District Judge, as the case may be shall be final.
- B. Rules :**
- R.3(1) TRIBUNAL AND DISTRICT JUDGE TO FOLLOW RULES OF EVIDENCE.**—(1) In holding an enquiry under sub-section (3) of section 4 or disposing of any application under sub-section (4) of section 7 or sub-section (8) of section 8, the Tribunal or the District Judge, as the case may be, shall, subject to the provisions of sub-rule (2), follow as far as practicable, the rules of evidence laid down in the Indian Evidence Act, 1872 (1 of 1872).
- (2) Notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1872), where any books of account or other documents have been produced before the Tribunal or the Court of the District Judge by the Central Government and such books of account or other documents are claimed by that Government to be of a confidential nature then the Tribunal or the Court of the District Judge, as the case may be, shall not,—
- (a) make such books of account or other documents a part of the proceedings before it; or
 - (b) allow inspection of, or grant a copy of, the whole or of any extract from, such books of account or other documents by or to any person other than a party to the proceedings before it.
- 5. DOCUMENTS WHICH SHOULD ACCOMPANY A REFERENCE TO THE TRIBUNAL.**—Every reference made to the Tribunal under sub-section (1) of section (1) of section 4 shall be accompanied by:—
- (i) a copy of the notification made under sub-section (1) of section 3, and
 - (ii) all the facts on which the grounds specified in the said notification are based;
- Provided that nothing in this rule shall require the Central Government to disclose any fact to the Tribunal which that Government considers against the public interest to disclose."
- The Central Government, in the exercise of its powers under Section 3 of the Act, by a notification dated 18th of February, 1992 (hereinafter referred to as the notification), declared its opinion that the IKLF is an unlawful association. This Tribunal was constituted by the Central Government by notification dated 18th of February, 1992. The reference was made by sending to the Tribunal a copy of the notification and a statement of facts described as 'Resume' on 16th of March 1992.

The notification dated 18th of February 1992 is reproduced below:—

“MINISTRY OF HOME AFFAIRS

NOTIFICATION

New Delhi, the 18th February, 1992

S.O. 140(E).—Whereas the Jammu and Kashmir Liberation Front (hereinafter referred to as JKLF) is an association actually based in Pakistan and London and having sympathisers, supporters and agents on Indian soil, especially in Jammu and Kashmir, and—

- (i) it has openly declared as its aim secession of the State of Jammu and Kashmir from the Union of India, and to achieve this purpose—
 - (a) has been preaching rights of self-determination for the people of Jammu and Kashmir and has been giving calls through posters to the people of the State to observe 15th of August (Independence Day) as a Black Day in the State to protest against the alleged occupation of Kashmir by Indian Forces;
 - (b) has also declared, as per its ideology, that the people of the State of Jammu and Kashmir are not bound by or will not abide by any treaty or accord or agreement which might have been arrived at without the wishes of the people of the State (including the people living in that area of Kashmir now under illegal occupation of Pakistan);
- (ii) it has in its attempt to cause secession of the State of Jammu and Kashmir from the Union of India—
 - (a) tried to create public disorder by giving calls for Bandhs and strikes through posters;
 - (b) unleashed a reign of terror in Kashmir Valley and indulged in large number of assassinations of political workers and public servants who are responsible for maintenance of public order and by these acts it has intended to create chaos in the State and to effect complete breakdown of machinery of Government as established by law;
- (iii) it had launched a campaign in November, 1989 to boycott participation by common voters in the Elections to the Ninth Lok Sabha and through its coercive methods succeeded to a large extent in that campaign;
- (iv) in pursuance of its designs the activists of JKLF continued to indulge in various criminal acts such as attacks on the Security Forces, through use of combination of sophisticated weapons and abduction of important political leaders, public servants and innocent citizens without any discrimination;
- (v) the Chairman of JKLF, Amanullah Khan through a statement issued on 01-01-1990 in Rawalpindi, Pakistan declared JKLF to be an enemy of Government of India and its functionaries and all such political parties in India who support the accession of the State of Jammu and Kashmir with India;

And whereas the Central Government is of the opinion that for the aforesaid reasons the JKLF (including its members, activists, armed groups and sympathisers working inside India in collaboration with their masters abroad) is an Unlawful association;

And whereas the Central Government is further of the opinion that because of the repeated acts of violence and attacks by armed groups and members of the JKLF on the security forces and on the civilian population, it is necessary to declare the association referred to in the preceding paragraph to be unlawful with immediate effect;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967), the Central Government hereby declares the JKLF (including its members, activists, armed groups and sympathisers, working inside India in collaboration with their masters abroad) to be an unlawful association, and directs, in exercise of the powers conferred by the proviso to sub-section (3) of that section, that this notification shall subject to any order that may be made under section 4 of the said Act, have effect from the date of its publication in the Official Gazette.

New Delhi

Dated 18th February, 1992.

(F. No. 13014/18/91-K)

K. K. SINHA, Jt. Secy.”

In the resume the Central Government has stated the following facts. JKLF is an organisation actually based in Pakistan and Birmingham (U.K.). Some disgruntled Kashmiris in Pakistan formed the organisation in 1960. One Mohd. Maqbool Bhat, who hailed from Kuphara, on the Indian side, was its founder member. The main aim of the organisation was stated to be the achievement of right of self-determination for the people of Kashmir. According to them, the State of Jammu and Kashmir is an indivisible whole and the people of the State alone have the right to determine their future. As per their ideology, the people of the State are not bound by or will not abide by any treaty, accord or agreement which might have been arrived at without ascertaining the wishes of the people of the State. Initially, members of the association made various representations to the U.N.O. and to the Heads of certain countries to support their cause. After being completely disappointed due to the apathy of the U.N.O. to their demand of self-determination, the leaders of this organisation started advocating armed struggle for achievement of liberation. In pursuance of this object, members of the organisation got training in use of arms etc. on guerilla pattern in Pakistan and in Pakistan occupied part of Kashmir (POK).

Mohd. Maqbool Bhat along with a group of JKLF members infiltrated into the valley to organise underground activities of the association in India. They committed two dacoities and murder of head constable of police, for which Maqbool Bhat was arrested and later sentenced to death. While awaiting execution of the death sentence, Maqbool Bhat escaped from Srinagar Jail and returned to Pakistan in December, 1968. He was elected President of the JKLF. The JKLF organised in 1971 hijacking of Indian Airlines aircraft by two Kashmiris, namely, Hashim Qureshi and Ashraf Qureshi who had earlier been trained for use of fire arms in Pakistan. Later, in 1976, Maqbool Bhat along with his associates who also had been imparted training for handling arms and ammunition and for indulging in sabotage and subversive activities for blowing up bridges and vital installations etc. again infiltrated into the valley. Maqbool Bhat and some of his associates were, however, arrested after they committed dacoity in Langate branch of Jammu and Kashmir Bank. Maqbool Bhat, on interrogation, disclosed that JKLF had plans to create a wide-spread network in the valley to start a struggle for liberation of the State of Jammu and Kashmir and that he had enrolled Kashmiri youths and sent them across the border for training for that purpose.

In September, 1976 a group of Kashmiri youths, led by Abdul Hamid, inspired by the ideals of JKLF, hijacked another Indian Airlines plane to Pakistan. Following the arrest of Maqbool Bhat, some prominent leaders of JKLF in Pakistan, namely, Amanullah Khan, Abdul Khaliq Ansari etc. went to England to organise activities with the object of bargaining for the release of Maqbool Bhat. They started their activities in collaboration with certain Kashmiris already living there and opened up a branch office in Birmingham (U.K.) which has now become its headquarter. The association also started publishing a monthly Journal, namely, “Voice of Kashmir” from U.K. This Journal has all along been projecting a distorted and pro-Pakistan version of the origin of Pakistan and inciting the youth in Kashmir to struggle for the achievement of their right of self-determination.

Certain instances of anti-national and unlawful activities of the JKLF are set out in the Resume. Further, it is averred in the Resume that JKLF had passed resolutions for securing the independence of Jammu and Kashmir State and secession of the territory of the State from the Union of India by armed struggle; calls given by the association through posters, for observing 15th of August (India's Independence day) as a black day to protest against the alleged occupation of Kashmir by Indian Forces, for boycotting Lok Sabha elections in November, 1989, and for observing bandhs and strikes, to create public disorder. In furtherance of its objects, its members and activists launched attacks on security forces; and indulged in other unlawful activities like kidnapping and assassination of political workers, public servants and other innocent people in the valley.

Specific instances of kidnapping of Dr. Rubiya Sayeed, daughter of the then Home Minister of India in December 1989, and abduction of 9 B.S.F. personnel with arms in May, 1991 are mentioned. In addition, a list of twenty-seven instances described as "Killings owned by JKLF" is appended to the Resume. The same is reproduced below :—

Sl.	Dated	Place	Brief facts
1.	14-3-89	M.S. High Street Sgr.	Explosion caused in the house of Om Parkash, a lady Prabhawal was injured who died in Hospital.
2.	13-7-89	Srinagar	Due to firing 3 CRPF men died.
3.	14-8-89	Babademb Sgr.	A National Conference Block President Mohd. Yousuf Halwai was killed while coming out of his residence.
4.	14-8-89	Chinkrai Mohalla, Sgr.	State BJP leader Tika Lal Taploo was killed while coming out of his residence.
5.	4-11-89 10	H.S.H. Street Sri Nagar	Retd. Sessions Judge Shri N.K. Ganjoo was killed by militants.
6.	1-12-89	Maisuma, Sgr.	Inspector Sajid-ullah SHO P/S Maisuma was killed at Maisuma Sgr by the militants.
7.	30-12-89	Srinagar	Shooting and injuring Dy. SP CID CI Kashmir.
8.	29-12-89	Srinagar	Shooting of ASI Ab. Majed of Urdu Bazar.
9.	16-1-90	Anantnag/ Sgr.	Two persons were hanged.
10.	5-1-90	Rawalpura Sgr.	Five Air Force men killed.
11.	8-2-90	Chanpora	Two CRPF Jawans killed
12.	9-3-90	Kupwara	Two IB Officers killed
13.	30-3-90	Anantnag	Killing of Jagar Nath No. 272 and Mohan Singh R/o Nambalbal of RAW.
14.	20-3-90	Chanpora	One person was killed at Chanpora.

1	2	3	4
15.	22-3-90	Anantnag	One IB Officer at Anantnag killed.
16.	24-3-90	Kigam Shopian	Abdul Sattar Kanjoor of CPI killed.
17.	10-4-90	Srinagar	Killing of H.L. Khera, GM, HMT.
18.	10-4-90	Srinagar	Killing of Prof. Mushir-ul-Haq, VC of Kashmir University.
19.	10-4-90	Srinagar	Killing of Ab. Gani, Secretary to VC, Kashmir University.
20.	10-5-90	Dr. Ali Jan Road, Sgr.	Killing of Surinder Kumar and Rattan Lal.
21.	2-6-90	Srinagar	Killing of Romesh Kumar Raina R/o Kralywar, Srinagar.
22.	4-6-90	Handwara	Killing of Dilawar Bhah.
23.	8-6-90	Srinagar	Killing of Rajiv @ Qiyas R/o Pahari Colony, Jammu.
24.	7-10-90	Sopore	Prof. K.L. Ganjoo abducted and later on killed.
25.	28-10-90	Kolmoh Kulgam	Bullet ridden dead body of Ch. Rasool Sheikh r/o Warpora Sopore was recovered.
26.	23-11-90	Tangmarg Baramulla	Two dead bodies of Bashir Ahmed Tarandi and Abdul Hamid Rana r/o Bijhama Uri were recovered.
		1991	
27.	3-9-91	Nadiyali Marmote, Suranote.	Two armed and masked militants intruded in the house of Haji Lal Hussain and fired at Khadam Hussain r/o Hadi who died on spot besides killing four others.

The Government of Jammu and Kashmir had issued a notification dated 16th of April, 1990 declaring JKLF to be an unlawful association on grounds falling under State subjects like public administration and the maintenance of law and order under the Jammu and Kashmir Criminal Law (Amendment) Act, 1983. Proceedings pursuant to that notification, however could not be completed within the prescribed period, and the reference to the State Tribunal abated. In view of the growing unlawful activities of the JKLF, the Central Government has issued the notification which is the subject matter of this reference under the Act.

The Tribunal, on receipt of the reference, called upon the JKLF, by notice in writing, to show cause why the association should not be declared unlawful. The notice was directed to be served on JKLF by various modes: by hand, post or by affixing a copy thereof on some part of its office in Birminghams (UK) and if possible, in Rawalpindi (Pakistan); by advertising contents of the notice in daily newspapers 'Alsafa' and 'Srinagar Times' published and

circulated in J&K State, by insertion in a new paper circulating in Birmingham (U.K.) and, if possible, in Pakistan and by all such other modes as were followed in effecting service of the notification under sub-section (1) of Section 3 of the Act. The Central Government submitted a report dated 21st of April, 1992 stating that Alsafa, to whom the notice was sent, did not publish it, that the notice was published in another newspaper Daily Excelsior, Jammu on 9th of April, 1992, and in Srinagar Times on 12th of April, 1992; that the notice was also used as news item in the evening bulletins of Urdu and Kashmiri languages on 9th of April, 1992 by Doordarshan, Jammu/Srinagar, and the same item was carried in the news bulletins of Radio Kashmir in Urdu and Kashmiri in the evening on the same day. By another report dated 12th of May, 1992, the Tribunal was informed that 'Alsafa' also had published the notice on 23rd of April, 1992; that it was found possible either to serve the notice at JKLF office in Rawalpindi or get it published locally in newspapers there, that the Newspaper 'Birmingham Post' published the notice on 11th of May, 1992, and that notices were also served the same day, through the Process Servers at the Birmingham office and at the Luton Headquarters of the JKLF in U.K.

Despite service of the notices as aforesaid, no one entered appearance and no written statement of defence was filed on behalf of JKLF. Consequently, by an order dated 11th of June, 1992, the enquiry was directed to proceed ex parte.

On expiry of the prescribed period of 30 days from the date of service of the show cause notices on JKLF even in U.K., however, learned counsel for the Central Government and the State Government had contended that since JKLF had opted, for reasons best known to its office-bearers and members, not to respond to the show cause notice, the Tribunal need not hold any enquiry; and that the Tribunal should make, as expeditiously as possible, an order confirming the declaration. But, brushing aside this suggestion to apply the short-cut, it was decided to hold the enquiry. Now, it would be appropriate for me to state the reasons that impelled me to proceed to hold the enquiry albeit ex parte.

The Constitution of India guarantees, inter alia, that all citizens shall have the right to form association, subject only to reasonable restrictions, in the interests of sovereignty and integrity of India or public order or morality, imposed by law; and that no person shall be deprived of his personal liberty except according to procedure established by law. Notification under Section 3 of the Act, though operative for limited period, imperils these fundamental rights. If confirmed, certain acts of members of the association and of other persons also who may be connected with the activities of the association are declared unlawful and the same are treated as cognizable offences punishable with imprisonment for terms extending even upto 7 years under Sections 10 to 14 of the Act.

Whether or not to declare an association unlawful is essentially a governmental function. Since such a declaration has far-reaching consequences affecting fundamental rights of citizens and other persons, the Legislature has prescribed certain safeguard for controlling the exercise of this drastic power.

The Government's declaration made in the notification is inchoate. This is clear from the provisions made in sub-section (3) of Section 3, sub-section (3) of Section 4 and sub-section (1) of Section 6 of the Act. Ordinarily, no notification under Section 3 shall have effect until the Tribunal has, by an order made under Section 4 confirmed the declaration. Even where the Government is of opinion that circumstances exist which render it necessary to declare the association unlawful with immediate effect, and the proviso to sub-section (1) of Section 3 is invoked the notification shall have effect, subject to any order that may be made under Section 4 of the Act. The Government's notification, to be fully effective, has to pass the judicial test of adjudication whether or not there is sufficient cause for declaring the association unlawful. The Tribunal's order confirming the declaration makes it perfect.

The Government's notification sets into motion the machinery for judicial determination and final decision of the matter by the Tribunal. Adjudication points to a hearing by a judicial authority, after notice of legal evidence on the factual issue involve; and hearing of legal evidence implies enquiry. Till expiry of minimum thirty days time given to the affected association to respond, unless cause is shown earlier, hearing or evidence is impermissible that may position that the association may take, may well mould the scope of the enquiry, or influence the procedure that may be followed in holding the enquiry. The stage for enquiry under Section 4 is, therefore, set only after considering the cause, if any, shown by or on behalf of the association.

What is to be adjudicated upon is whether or not there is sufficient cause for declaring the association unlawful. The Tribunal shall decide this question on the basis of evidence on record. Obviously, for the admission of evidence and for going into it, the Tribunal has to hold the enquiry. In holding the enquiry, Rule 3 requires that the Tribunal shall follow, as far as practicable, the rules of evidence laid down in the Evidence Act. What is the nature of the enquiry and how the enquiry is to be held? Section 9 postulates that the Tribunal shall follow, as far as may be, the procedure laid down in the Code of Civil Procedure "for investigation of claims". There is a clear distinction between the procedure to be followed for hearing of suits and that for investigation of claims. Far more detailed procedure is laid down for the trial of issues and hearing of suits under Order XXVIII as against the summary procedure envisaged under Order XXI Rule 18 (1) (as it existed at the relevant time when the Act was passed prior to 1976 Amendment of the CPC) for investigation of claims under the CPC. Thus, what is envisaged is an enquiry by Summary procedure.

The nature of function of the Tribunal envisaged under Section 4 of the Act is somewhat different from judicial review of administrative action. The scope of judicial review is restricted to find out whether the opinion of the administrative authority is based upon existing, relevant and cogent material. Sufficiency of material is beyond the scope of judicial review. Under Section 4 of the Act, the Tribunal is not concerned with the material that may or may not have been taken into consideration by the Government. The Tribunal has to autonomously adjudicate whether or not there is sufficient cause for declaring the association unlawful.

Sufficient cause is different from sufficient material. Sufficient cause has undoubtedly to be tested on the basis of satisfactory evidence to prove the relevant facts on record. But it does not mean any cause which the Government may deem sufficient to justify the declaration. Here, the Tribunal has to test sufficient cause and that should mean existence of legal cause of substantial nature directly connected with public interest in the achievement and fulfilment of the object of the Act.

It is pertinent to note that the Legislature has provided for adjudication of the matter by a High Court Judge, specially constituted for this purpose as a Tribunal under sub-section (1) of Section 5 of the Act. Sub-section (3) enjoins upon the Central Government to make available to the Tribunal such staff as may be necessary for the discharge of its functions; and sub-section (4) provides that all expenses incurred in connection with the Tribunal shall be defrayed out of the Consolidated Fund of India. The Tribunal is vested with absolute power under Section 4 to make such order as it may deem fit either confirming the declaration or cancelling the same. The decision of the Tribunal, by virtue of Section 9, shall be final and the order of the Tribunal made under sub-section (3) shall be published in the Official Gazette.

These provisions show beyond doubt working of the legislature to give primacy to independent judicial enquiry and adjudication of sufficiency of the cause by the Tribunal. Provision has been made for a thorough probe by the Tribunal. The Tribunal has to judge the cause from the point of view of public interest unlike the usual determination of disputes inter-se adversary parties. The Tribunal has to guard against unnecessary transgression of fundamental rights of members of the affected association as also of the

others whose personal liberty may be put in jeopardy by the notification. This is an important legal safeguard for controlling the exercise of drastic powers given to the Government under the Act. In my view, for a fair determination of the matter, even where the affected association chooses not to cooperate this salutary legal safeguard should be enforced, and the enquiry must be held.

Another related question is: What should be the standard of proof of facts for deciding the question under reference. Consistent with the summary nature of the proceedings, reception of evidence on affidavits is expressly envisaged under Section 5 of the Act. Keeping in view the peculiar nature of the activities sought to be prevented, in respect of which direct evidence is difficult to get and truly unrealistic to expect, the strict rules of evidence have to be relaxed to fit into the scheme of the provisions made under the Act. Hence, the Tribunal may act upon relevant and cogent material which tends logically to show whether or not there is sufficient cause for declaring the association unlawful rather than looking for conclusive proof of the grounds furnished in the notification.

Now, to justify the notification, affidavits of V. K. Gupta, Addl. Secretary, A. K. Saxena, Director and Ashok Bhatia, Joint Secretary of the Ministry of Home Affairs, Government of India and the affidavits of Rakesh Gupta, Addl. Secretary and Mahmood-ul-Rehman, Addl. Chief Secretary, Home Department of the State Government have been filed by way of evidence.

From these affidavits, it appears that the Central Government has issued the notification on the basis of information and material received by it, from time to time, from its own intelligence agencies and other sources; from Press Reports compiled by it and from the State Government, who had, in turn, collected information and material from its intelligence agencies, and from its Police Department on investigation of reported cases some of which are pending trial in Courts. Xeroxed copies of a large number such documents have been produced along with the affidavits by way of evidence. It is stated that the original documents are contained in official records maintained in the ordinary course of business and that the same are in the possession, custody and control of the Government.

Rakesh Gupta, Addl. Secretary (Home) has also filed on behalf of the State Government photo copy of a memorandum dated 8th of June 1991 filed by Yasim Malik on behalf of JKLF before the State Tribunal in the proceedings which were initiated against the association under the State laws. The original records were deposited by the State Tribunal with the State Government after abatement of these proceedings. Copy of the said memorandum is stated to have been taken from that record.

On initial scrutiny of the documents filed on behalf of the Central Government and the State Government, certain documents that relate subversive and terrorist activities in the State but do not show direct involvement of JKLF, were identified. These irrelevant documents, mentioned in the 1st Appendix I, were straightway excluded from consideration.

Thereupon the original records in possession and custody of the Central Government and the State Government were directed to be produced for testing the existence and genuineness of the remaining documents. The Central Government produced the records in its possession for examination at Delhi. The State

Government also produced some of its documents at Delhi; and, for examination of the bulk of others, requested the Tribunal to hold its sittings at Patnitop, a place between Jammu and Srinagar in the State. Examination of the original documents, though it took a lot of time, confirmed their existence and genuineness, and the reliability of copies thereof annexed to the affidavits. Here, it may be noted that the Central Government and the State Government laid before the Tribunal the original secret documents also but they claimed privilege from public disclosure of particulars of the persons and the sources who gave the sensitive information contained in some of the documents, and of persons who had dealt with those documents from time to time. In public interest, this claim was allowed. Being satisfied, at random check, that the copies placed on record were so prepared as to fully reveal contents of the original documents, while avoiding disclosure of only the names and particulars of the concerned persons mentioned in the secret documents, the original documents were returned and the copies thereof annexed to the affidavits were allowed to be read in evidence.

Certain documents have been produced purporting to be statements of different persons recorded under Sections 161 and 164 Cr. P.C., and under Section 15 of the Terrorists and Disruptive (Prevention) Act, 1957 (TADA). Since these statements and confessions were made before officers authorised by law to take such evidence, presumption may be drawn under Section 80 of the Evidence Act that these documents are genuine and that the statements and confessions were duly taken. The persons who have made confessional statements, acknowledge their share and participation in commission of the offences of which they are charged in the cases pending in Courts. They have also revealed the facts and circumstances of other criminal activities in which they were involved. They have named several other members and activists of JKLF and described the share and participation of each of them in the activities disclosed in their statements. The contents and tenor of their statements, especially the particulars and details given therein, suggest that the statements were made voluntarily in response to a specific query, after taking instructions from a senior officer who was briefing him in the matter, learned counsel for the State Government affirmed that none of the confessional statements had been retracted. Thus assured of the voluntary nature of the confessional statements, the certified copies thereof were permitted to be read in evidence.

Newspaper reports, by themselves, on strict application of the rules of evidence, may not be taken as proof of their contents. Yet, it cannot be denied that newspapers do carry contemporaneous reports of day-to-day activities of general public interest, and that reporters and editors usually verify correctness of facts before publishing them. Such reports, specially where more than one newspapers report the same thing, or where the occurrence of an event is established by other evidence like FIR and other official investigation records of the Police Department, may well be taken into consideration.

Historically, the territory of the State of Jammu and Kashmir is an integral part of India. On the lapse of British paramountcy, as from 15th of

August 1947, the territory of the Indian State of Jammu & Kashmir, ruled by the then Maharaja, became a sovereign State by virtue of the Indian Independence Act, 1947. In October, 1947 Pakistani soldiers in plain clothes, accompanied by desperados and tribals drawn from areas of the North-West Frontier, armed with up-to-date weapons, infiltrated into the State, first at Poonch and finally in mass area adjoining Hazara District on the Ramkot side of the State. The troops at the disposal of the State found it difficult for them to stop the blatant destruction of life and property and looting by the raiders, who were marching on with the aim of capturing Srinagar, the summer capital of the State, as first step to over-running the whole State. Eventually, the Ruler of the State, in the exercise of his sovereignty in and over his State, acceded to the dominion of India by an Instrument of Accession dated 26th of October 1947.

After the accession, Indian troops swung into action and beat off the Pakistani raiders from a part of the occupied territory. While fighting was on, India raised the Kashmir issue in the United Nations Organisation. On 13th of August 1948, the U.N. Commission for India and Pakistan passed a resolution for the prompt cessation of hostilities. Accordingly, the Governments of India and Pakistan simultaneously issued separate cease-fire orders. Both the Governments accepted certain principles as a basis for the formulation of a Truce Agreement. The agreement envisaged, inter alia, that Pakistan will withdraw its troops from the territory of the State of Jammu & Kashmir and will use its best endeavour to secure the withdrawal from the State of tribesmen and Pakistan nationals not normally residing therein who had entered the State for the purpose of fighting; and that when the Pakistan troops, the tribesmen and Pakistani nationals are withdrawn, the Government of India agreed to begin to withdraw the bulk of its forces from the State in stages. Another resolution passed on 5th of January 1949 noted acceptance of the Governments of India and Pakistan, inter alia, that the question of the accession of the State of J&K to India and Pakistan will be decided through plebiscite, and that the plebiscite will be held after the ceasefire and truce arrangement set forth in the Commission's earlier resolution have been carried out. But, Pakistan did not withdraw her forces from the occupied territory. Thus, the U.N. resolutions were foiled.

The Instrument of Accession, by which the whole territory of the State of Jammu & Kashmir became a part of dominion of India still holds goods.

The Constitution of India was adopted and enacted in the Constituent Assembly on 26th of November 1949. Article 1 declares that India shall be a Union of States, and that the States and the territories thereof shall be as specified in the First Schedule. On the basis of the Instrument of Accession, Entry 15 of the First Schedule describes the territory of Jammu and Kashmir as : "The territory which immediately before the commencement of this Constitution was comprised in the Indian State of Jammu and Kashmir".

Then, on 1st of May 1951, the Head of Jammu and Kashmir State issued a proclamation for the purpose of electing, on the basis of adult franchise, a Constituent Assembly for framing a Constitution for the State of Jammu and Kashmir. Following election, the Constituent Assembly was convened on 5th of November 1951. The people of the State of Jammu and Kashmir, after detailed discussion, adopted and enacted the Constitution of Jammu and Kashmir in the Constituent Assembly on 17th of November 1956. The Preamble states that the people of the State of Jammu and Kashmir had resolved, in pursuance of the accession of the State to India, to further define the existing relationship of the State with the Union of India as an integral part thereof. Articles 3 and 4 of the Constitution which came into force at once, declare : "The State of Jammu and Kashmir is and shall be an integral part of the Union of India" and "The territory of the State shall comprise all the territories which on the fifteenth day of August 1947, were under the sovereignty or suzerainty of the Ruler of the State".

Pakistan, however, not being satisfied with its misadventure of 1947 and in flagrant violation of the U.N. resolutions, twice tried to annex by force more territory of the State of Jammu & Kashmir that resulted in wars in 1965 and in 1971. Each time, the Pakistani attack was repulsed and the Indian troops captured parts of Pakistan's territory. The war in 1965 ended with the mutual declaration dated 10th of January 1966 signed on behalf of the two parties at Tashkent. At the end of the conflict in 1971, both sides met again outside the UNO auspices and entered into the Simla Agreement dated 2nd of July 1972. Both times, the captured part of Pakistani territory was returned. Finally, under the Simla Agreement, the parties resolved to settle their differences (none other than the Kashmir problem) by peaceful means through bilateral negotiations or by any other peaceful means mutually agreed upon between them. In the meanwhile, both the Governments agreed that in Jammu & Kashmir, the Line of Control resulting from the cease-fire of 15th of December 1971 shall be respected. This is the historical background on which the relationship between Indian and Pakistan in respect of the State of Jammu and Kashmir stands. These events find mention in the documents placed in Section A of Appendix II.

The Constitution of JKLF declares that the State of Jammu and Kashmir includes whole of the territory that was a part of the State on 14th of August 1947. The main objective of the Front is stated to be the achievement of liberation and establishment of an independent sovereign State of Jammu and Kashmir. According to JKLF, the people of the State neither accept nor shall be bound by any international agreement which might have been arrived at without their wishes, and the people alone have the right to determine the political status of the State. The Chairman of the Front, Amanullah Khan is reported to have said that for achieving its aims, "Front (JKLF) was simultaneously fighting on three fronts, political, diplomatic and that of guerilla warfare".

This is manifest from the communications sent by office bearers and members of JKLF to the heads and other leaders of certain countries and to the UNO, from the declarations and statements made at the meetings and conventions of the association, and from book-lets, posters, pamphlets etc issued by it from time to time. In all these communications and declarations etc., emphasis is placed on the JKLF's claim for plebiscite to be held in Kashmir. A lot is said against India, but occasional protest in mild terms is expressed against occupation of the territory by Pakistan. In the communications separately sent to the Prime Ministers of India and Pakistan, interestingly, the letter sent to Mr. Rajiv Gandhi, called upon India to quit Kashmir, and by another letter addressed to Mr. Chander Shekhar, a threat was given to continue struggle against India; and at the same time, the letter addressed to Mr. Nawaz Sharif thanked him for the continued support and help given to the cause of his "brethren in Kashmir". So much for the fight for total freedom and liberation of the whole of the territory that was the indivisible State of Jammu and Kashmir on the 14th of August 1947.

JKLF, in its movement against India, passed a number of resolutions at a secret meeting held at Muzaffarabad on 1st of September 1988. The meeting was chaired by Dr. Farooq Hyder, Vice-Chairman of JKLF and was attended by, inter alia, some ISI personnel known to be affiliated to the army of Pakistan. The resolutions adopted in that meeting give out the following strategy :—

- (i) induct large quantities of arms and ammunition into the Kashmir valley;
- (ii) create disorder in the Kashmir Valley;
- (iii) secure release of JKLF activists jailed in India; and
- (iv) cripple the administration in Kashmir by sabotage and subversion.

In pursuance of these plans, leaders of JKLF have been instigating the youth in Kashmir to resort to armed struggle and guerilla warfare. Printed posters were found pasted in different parts of the Valley containing slogans like "Our moto complete independence in Kashmir", "Azadi Ka Ek hi Dhun—Guerilla Jung"; and "Pakistan Jayenge, Kalashnikov Layenge" etc. Posters had also been issued from time to time eulogising Muqbool Bhat as a martyr of freedom. Members and activists of JKLF have been indulging in subversive and terrorist activities in the Valley. They have also been engaged in creating infrastructure in the Jammu region of the State. They have been fanning communal hatred and violence by calling upon Muslims to dispossess Hindus from houses in the Valley, and to give a fitting reply to Hindus in the Jammu region in case they try to criticise Muslims. On Friday, the congregated Muslims are exorted to get ready for sacrifice for the liberation of Kashmir. Intelligence Reports and other documents mentioned in Sec. B as well as the confessional statements made by members and activists of JKLF that are entered in Sec. C of Appendix II, show that Youths are being motivated, enrolled and drawn into the armed struggle. They are taken to Pakistan

for training in the handling of arms and explosives. The trainees are also given final briefing sometimes by Amanullah Khan and Dr. Farooq Hyder who stress upon the achievement of the liberation of Jammu and Kashmir by armed insurrection. They are sent back fully equipped with sophisticated weapons like AK-47 and Kalashnikov rifles, carbines, rockets and rocket launchers, bombs and ammunition etc. that are used in subversive, terrorist and other criminal activities in the State. Directions have been issued to the Area Commanders to start full-scale war with India on lines of the Afgan War.

JKLF, in pursuance of its ideology, announced on 18th of June 1990 the setting up of a Provincial Government of Independent Kashmir at Muzaffarabad. Later, a postal ticket also was issued and its facsimile was published in newspaper Alsafa on 22nd of August 1990.

The Simla Agreement, according to JKLF is not binding on the people of Kashmir as they were not a party to the accord. In December, 1990, when Indo-Pak talks were scheduled, banners of JKLF were hoisted in down town Srinagar depicting the message "Indo-Pak talks are not acceptable to us—Kashmir should also be joined in these talks".

In furtherance of the above-mentioned objects, JKLF launched a campaign in November, 1989 to boycott participation by common voters in the elections to the 9th Lok Sabha. It stepped up terrorist activities such as threats to members and the workers of political parties and attacks on those who intended to participate in the elections. Members and activists of the association had upset arrangements made for the elections by bomb explosions at the proposed venues of polling booths enforced 'Civil Curfew' on the days fixed for polling in the Valley. The Chairman of JKLF, Amanullah Khan, through a statement issued on 1st of January 1990 in Rawalpindi, declared JKLF to be an enemy of the Government of India and its functionaries and all such political parties in India who support the accession of State of Jammu and Kashmir with India, and exorted members and activists of the association that all of them should be made targets. Both these grounds are established by the documents entered in Sec. D of Appendix II.

JKLF has called upon people to observe India's Independence Day on August 15 and Republic Day on January 26 as Black Days. Intelligence reports received in 1989 and 1990, included in Section E in Appendix II, show that JKLF posters, leaflets and pamphlets were found pasted on walls and lamp posts calling upon Kashmiri People to observe "hartal" and "Civi Curfew" on the India's Independence Day and to observe August 15 as black day. JKLF directed its cadre to ensure that no Indian Flag is hoisted at any place in valley" on August 15. Instead, local people were instructed to celebrate August 14 (Independence Day of Pakistan) and to observe August 15 as a day of mourning.

On January 16, 1990, in a broadcast from Azad Kashmir, POK Prime Minister made an appeal to Kashmiris to observe January 26 as protest day against the Indian occupation of Jammu and Kashmir. JKLF also issued printed posters calling upon people, to

make bon-fire of national flag and hold demonstration on January 26, and to observe January 26 as black day besides "Civil Curfew" on that day. The parents were asked not to send their children to participate in Republic Day celebrations.

On Friday prayers, JKLF and other organisations called for observing "Civil Curfew" and "blackout" even on United Nation's Day—October 24, 1990 as a mark of protest against the inaction on the part of the world body.

JKLF has tried to create public disorder by giving calls for bandhs/strikes in the valley. Instances of this activity found in document mentioned in Sec. F of Appendix II show that JKLF had given a call to people in Srinagar to observe 2-Day hartal/blackday on October 27-28, 1989 in protest against landing of Indian troops in Jammu and Kashmir in 1947. JKLF posters were found pasted on walls asking people to observe Civil Curfew/strike on Indian Independence Day on 15th of August 1989; in mid-November calling for a strike on polling days i.e. November 22 and 24, 1989; for a token strike on 3rd of November 1990 in support of agitating Govt. employees; and in May, 1990 for 10-day hartal to mourn the death of Mirwaz Maulvi Mohd. Farooq. Complete 'hartal' was observed on 'Martyrs Day' on 13th of July, and there was near total response in Ramban and Banihal in Doda District in Jammu area on July 18 and 19 to protest against the Indo-Pak talks on Kashmir; Civil Curfew and blackout was observed on October 24—U.N. Day as a mark of protest against the inaction of that organisation; and again 2-Day hartal as observed against Secretarial level talks between India and Pakistan in December, 1990, in response to JKLF's call for Bundhs and strikes JKLF also gave a call for 17 hrs. strike on 14th of December 1990 in protest against the arrest of Mr. Tahir Mir, Dy. Chief of JKLF. Srinagar Times (19-6-91) reported that in response to the calls of several militant organisations there was complete hartal observed paralysing the whole valley. Newspaper Vadi Ki Awaz (9-6-91) reported the 'successful bandh in the valley'. Offices and educational institutions remained closed. Newspaper Aftab (9-6-91) reported "massive hartal in the valley. Whole life paralysed".

Soon after the secret meeting held on 1st of September 1988 held at Muzaffarabad, Manzoor Ahmed Malik and many other activists of PKLF were apprehended by the police. Documents were recovered from the possession of Manzoor Ahmed Malik showing the involvement of JKLF in a series of recent armed actions and explosions in the valley including the bomb blast at Anantnag bus stop. Interrogation of ten others revealed that Kupwara in Kashmir valley remained the main hub of Pakistan-inspired JKLF activities; that here was a sizeable section of pro-Maqbool Bhat elements who still derived inspiration from his 'martyrdom' that over 100 youths had by that time gone across to Jammu and Kashmir and received training in the use of arms; that most of these recruits were supporters of JKLF; that training camps were located near Mirpur, Chinari and Lina valley in POK as also at Sinkari opposite Muzaffarabad and Jhari near Islamabad in Pakistan; that the training lasted about

10 days including handling of AK-47 and Kalashnikov rifles, carbines, stenguns, rockets, rocket launchers and also lectures and practical demonstrations in concealment, camouflage, group assault, ambush and use of anti-tank and anti-personnel mines etc. They also disclosed that prior to their return to Kashmir, trainees were given final briefing by Amanullah Khan and Dr. Farooq Hyder who stressed that complete liberation of Kashmir by armed insurrection was their ultimate aim. Interestingly, these plans had immediate effect. Several incidents of firing in the Srinagar city took place. These included an attempt to force entry into the residence of DIB Srinagar; firing by motor-cycle borne youth on the santry box at the residence of Ganjoo, retired Sessions Judge, who was later killed; indiscriminate firing by two or three unidentified youths at night in a lane behind Police Headquarters, Srinagar; and firing by two unidentified motor-cycle borne youths at the santry post outside Sri Pratap Museum, Srinagar. Subsequent events testify carefully calculated execution of these plans, and escalation in the activities of JKLF, some instances of which will be discussed later in the judgment.

Intelligence Report dated 28th of October 1990 shows that 150 militants were inducted in the valley through different sectors. JKLF activists had been bringing large quantities of weapons into Jammu and Kashmir. For example, Sher Khan organised transportation of 22 boxes of arms and ammunition from Kotli. Other intelligence reports and statements made by some of the arrested men also reveal that JKLF has been engaged in creating infrastructure for staging violent activities in Jammu region also. Some of their Jammu based activists have been given training in the use of AK-47 rifles and explosives Javed Ahmed Shal, Mushtaq Ahmed Khan and Mohd. Rafiq Pehloo confessed that they had gone to Pakistan in groups for arms training. On return, like the others, they also brought arms and ammunition from Pakistan. Wajahat Basheer Qureshi was found to be in possession of a number of arms at the time of his arrest. JKLF has directed its Area Commanders to start a full scale war with India on lines of the Afghan War. All this comes out from the documents mentioned in Section G and the confessional statements of the above-named persons entered in Sec.C of Appendix II.

JKLF activists in pursuance of its design to create disorder and to cripple the administration by sabotage and subversion, launched attacks on security forces in Kashmir through sophisticated weapons. Shaukat Ahmed Bakshi has disclosed in his confessional statement that when he went to Pakistan in April/May, 1989 he met Amanullah Khan who instructed him and other boys to attack security forces and also exhorted them that Air Force personnel who go about freely in Kashmir should be hit out. Accordingly, he alongwith his associates attacked a police picket in August 1989 and attacked Air Force personnel in January, 1990. He has also stated that while returning from the burial of late Mirwaz Maulvi Farooq JKLF workers demolished bunkers of security forces. Wajahat Basheer Qureshi, Mushtaq Ahmed Khan, Mohd. Rafiq Pehloo and Javed Ahmed Shal also admitted

their involvement in various attacks on CRPF pickets and police jeeps. These confessional statements are included in Section C of Appendix II.

In first week of October, 1990 Tahir Ahmed Mir, acting Chief of JKLSI, had organised and directed a massive operation against the security forces. All kinds of weapons and explosives were used in this operation. Firing went on for 2 days. Newspapers also reported these clashes between JKLF militants and security forces. Some of these reports are included in the documents shown in Sec H of Appendix II.

Further, in pursuance of its plans to cripple the administration by sabotage and subversion in Kashmir, in the 1st week of December, 1989,—JKLF issued posters calling upon the NCF functionaries to resign from their party, failing which they would be killed. MLAs and MLCs putting up in MLA Hostel were delivered letters by JKLF branding them as traitors and stooge of Hindus, and directing them to leave Jammu and Kashmir. Officer Incharge Police Station, Mattan was threatened that he would be meted out the fate of Prem Nath Bhatt for hob-nobbing with local Kashmiri Pandits. Efforts were made by JKLF leaders to provide Hindu-Muslim rift by instigating people to destroy properties of Hindus and to desecrate Hindu religious places in the valley. JKLF had urged its activists to incite communal feelings against Hindus in Jammu area. They were also planning to set on fire Central Govt. offices so as to paralyse the administration in Kashmir. Wajahad Basheer Qureshi, Mushtaq Ahmed Sheikh and Khalid Ahmed Bhatt confessed to above carried out bomb blasts at different places. On January 23, 1990 JKLF workers indulged in arson and set ablaze Drugnora NPMC store and Lakipora bridge on Sopore-Kumwara Road. The confessional statements and other documents that bear out these facts are entered in Section C and Section I of Appendix II.

In pursuance of one of the resolutions passed in the secret meeting held at Muzaffarabad to secure the release of JKLF activists jailed in India, in the first week of December, 1989 JKLF activists including Rafiq Ahmed Pehloo @ Salim Nanaji meticulously planned and abducted Dr. Rubiya Sayeed, Shaikat Ahmed Bakshi, Zaman Mohd. Mir, Ali Mohd. Mir Mohd. Rafiq Dar, Mohd. Iqbal Gandroo, Javed Ahmed Zargar and Wajahad Basheer Qureshi confessed having participated in the abduction. These confessional statements are included in Section C of Appendix II. Dr. Rubiya was released on 13th of December 1989 in exchange of five JKLF leaders. In his statement dated 1st of January 1990 Amanullah Khan hailed the abduction of Dr. Rubiya Sayeed as the biggest achievement.

In the later part of December, 1989, JKLF activists had drawn up fresh plans for more kidnap-plan for highjacking a school bus carrying children and children were now to be nabbed. A tentative plan for highjacking a school bus carrying children of army personnel was drawn up. In the first week of April 1990 JKLF activities abducted Mushir-ul-Haq, Vice-Chancellor of the Kashmir University, 2251GI/92.—3

together with his aide Abdul Gani and H. L. Khera. General Manager, HMT. Release of some more JKLF activists was sought in exchange of these three. Amanullah Khan, in his statement in New York on April 9 threatened that JKLF would not hesitate to execute the hostages if their demand were not met. Since the demand for release was not acceded, the hostages were brutally killed. He also warned that the organisation would even target the then Prime Minister Mr. V. P. Singh and his predecessor Mr. Rajiv Gandhi, in further escalation of its campaign. In May, 1991, 9 security personnel were also kidnapped. These events were extensively covered by newspaper reports, some of which have been included in Sec. J of Appendix II.

JKLF appears to be responsible for 17 instances of killings out of the 27 cited in the list appended to the Resume. However, the information at hand does not establish connection of JKLF with the other instances mentioned in the list. Nonetheless, the involvement of JKLF in three more instances is clearly discernable from the material on record, thus establishing its involvement in 20 instances of killings.

They relied upon documents on this subject have been arranged with reference to each instance in the same numerical order in which they are shown in the list of killings appended to the Resume, followed by the three additional instances in Section K Appendix II.

Let us first take up the instances which do not incriminate JKLF. They fall in two categories. First, in respect of 7 instances at serial Nos. 4, 8, 11, 12, 14, 15 and 27 and in the list, no satisfactory material is found on the record. In the other category will fall instances at serial Nos. 2, 13 and 16 of the list, with reference to which the material on record is found to be deficient. The former, of course, needs no discussion. Instances in the later category may, however, be taken up one by one for discussion.

The killing of three CRPF men is recorded in FIR dated 13th of July 1989. In the case diary, the Investigating Officer had recorded that information was received from SDPO that JKLF activists were responsible for the killing. The Special Report dated 7th of September 1989 has also been produced. It gives out names of Yasin Malik, Mushtaq Labrana, Abdul Rashid Beg and Mushtaq Ahmed Beg as the persons involved in the firing. But the case was closed as "untraced". Obviously, this information, after investigation, was not substantiated.

Regarding the killings of Jagar Nath and Mohan Singh, reliance is placed upon two DSIs, dated 21st of March 1990 and 33rd of March 1990. The former names the killed persons but states that they were shot at by some unidentified persons in Anantnag. The latter purports to be based upon some press report but no particulars of that report are noted, nor that press report has been produced so as to legitimately conclude that Students Liberation Front, a satellite of JKLF has claimed responsibility for the killing of these two persons.

In respect of the killing of Abdul Sattar Ranjoor, reliance has been placed upon FIR and case diary. The former is of no help. The latter is based upon information stated to have been received from CID and IB sources about JKLF's admission of involvement in the crime. The said information must have been recorded and it should be in possession of the Government but the same has not been produced. The material on record is insufficient to attribute commission of the crime to JKLF.

For the foregoing reasons, instances Nos. 2, 13 and 16 cited in the list of killings, are of no use.

The involvement of JKLF in the killing of Prabhawati and shooting (not killing) of O. N. Watel, Dy. SP CID is clearly indicated in DSIs dated 14th of March 1989 and 1st of January 1990 respectively. Mohd. Yusuf Halwai, Block President of the National Conference was killed on 21st of July 1989. A sticker was found with his dead body reading "Indian occupants; Quit our Kashmir—Jammu Kashmir Liberation Front". FIR was recorded and the sticker was taken into possession. The original sticker had traces of splashed human blood on it and was sent for forensic examination on 26th of September 1989 in respect of which a report dated 31st of October 1989 was received. The Investigating Officer's communication and the forensic examination report sufficiently establish genuineness of the sticker which connects JKLF with the killing.

Killing of retired Sessions Judge N. K. Ganjoo is admitted by Mohd. Salim Zargar in his confessional statement. The FIR and case diary as well as a newspaper report in the Srinagar Times dated 5th of November 1989 covered this event. Later, Amanullah Khan in his statement dated 1st of January 1990 tried to justify the killing of N. K. Ganjoo.

With reference to the hanging of two persons, on 16th of January 1990, reliance is placed on (i) DSI dated 17th of January 1990, (ii) Newspaper report of Aftab dated 13th of July 1990 and (iii) FIR dated 27th of November 1991. The DSI reported that JKLF and two other militant outfits had owned the responsibility for hanging two persons and other acts of violence. This report, however, does not state the names of the persons hanged nor does it indicate clearly as to which of the three organisations had claimed responsibility for doing so. Later, newspaper Aftab reported on 13th of July 1990 that JKLF had, by a Press Release, owned responsibility for hanging of these two persons and disclosed their names to be Nisar Ahmed and Abdul Rehman Gazi. On the basis of the said press report, the father of Nisar Ahmed registered an FIR dated 24th of November 1990 when he needed his son's death certificate. The three documents read together establish connection between the occurrence and the JKLF.

Shaukat Ahmed Bakshi and Rafiq Ahmed Pehlou confessed their participation and gave detailed account of the firing at Air Force men resulting in the killing of five of them. Charge-sheet in respect of

this incident has been filed and the matter is pending trial. Shaukat Ahmed Bakshi has also disclosed that Amanullah Khan had directed him and to make Air Force men targets as they were going about freely in the valley.

Rafiq Ahmed Pehlou @ Balim Nanaji confessed to have killed SHO Saidullah. Tahir Ahmed Mir, Mohd. Hussain Khan, Gulam Ahmed Bhat, Khalid Ahmed Bhat and Mohd. Salim Zargar confessed to have kidnapped H. L. Khera, General Manager, Hindustan Machine Tools who was later killed. Likewise Mohd. Salim Zargar, Mushtaq Ahmed Sheikh, Javed Ahmed Shal, Mushtaq Ahmed Khan and Mohd. Hussain Khan confessed to have participated in the kidnapping of Mushir-ul-Haq, Vice-Chancellor of Kashmir University and his Private Secretary Abdul Gani who were later killed by Mohd. Salim Zargar. The involvement of these persons is also indicated in the statement of other persons recorded during investigation. The cases regarding murder of H. L. Khera, Mushir-ul-Haq and Abdul Gani are pending trial.

Involvement of JKLF in the killing of two Lift-men Surender Kumar and Rattan Lal is indicated by a note found by the side of the dead bodies which was taken into possession by a seizure memo in pursuance of which an FIR was lodged. Ramesh Kumar Raina was reported to have been abducted by militants on 28th of May 1990. JKLF, through posters, claimed to have killed him and having thrown the dead body into Jhelum at Saffa Qadal. JKLF owned killing of Dilwar Shah by a slip of paper found with the dead body. Soon thereafter, Rajiv @ Qiyas was killed. JKLF activists owned up responsibility for it by a note written on the last page of a register belonging to the victim that was found with the dead body in his tenanted apartment. The note suggests that Rajiv was short dead as he did not cooperate in the performance of some assigned task. The register containing the note along with empty pistol cartridge was taken into possession by a seizure memo and an FIR was registered. Each of these incidents was reported by DSIs.

An FIR dated 4th of May 1990 was registered regarding killing of Prof. K. L. Ganjoo and also his wife. Farooq Ahmed Hakeem in his statement dated 15th of January 1990, recorded under Section 164 Cr. P. C. during investigation of another case, revealed that on 2nd or 3rd of May 1990, two other activists, namely, Farooq Dhobi and Gulam Hasan took him along for interrogating one pandit boy Pista. They went to Mohalla Batupura. The other two entered the house of Prof. Ganjoo and brought Pista out. Prof. Ganjoo also came out pleading that whatever was to be found out from Pista should be done in his presence and that he would remain with the boy. At this Farooq Dhobi and Gulam Hasan took Pista and Prof. Ganjoo towards the river. Shortly thereafter, Farooq Hakeem who stayed back at the house of Prof. Ganjoo heard two or three rounds of fire. Ganjoo's wife enquired what the matter was about. Farooq Hakeem told her that there was nothing to worry about and kept consoling her. Two or three minutes later, the other two came back and whispered into the ears of Farooq Hakeem that while they were talking,

Pista leaped into the river at which Gulam Hasan fired a shot that hit Prof. Ganjoo and he died. Mrs. Ganjoo had no idea of what had happened till then. She asked Farooq Hakeem to take her to a nearby house of her friend till her husband got back home. The three accompanied her. On the way, near a bridge, Farooq Dhobi and Gulam Hasan decided to kill her too. Farooq Hakeem protested and he walked away while the other two took her aside into a park. Later, Farooq Hakeem learnt from Farooq Dhobi and Gulam Hasan that they had strangled Mrs. Ganjoo to death and thrown her body into the river.

JKLF admitted the killing of Gh. Rasool Sheikh, resident of Warpora Sopore and of Bashir Ahmed Tarandi and Abdul Hamid Rana, residents of Vijhama Uri. This is manifest by notes found with the bodies that were taken into possession by seizure memos on each occasion.

In addition to the above discussed instances cited in the Resume, the material on record reveals JKLF's involvement in three other killing also. Shaukat Ahmed Bakshi confessed that after careful planning, he killed Lassa Kaul, Director Doordarshan on 13th of February 1990 on the instructions of Amanullah Khan because he felt that T. V. was not giving proper coverage to the activities of JKLF. The killing of M. L. Bhan in February, 1990 is admitted in the statement of Rafiq Ahmed Pehloo. The killing of another IB officer B. K. Ganjoo at Chhota Bazar is admitted by Mohd. Salim Zargar. Thus, involvement of JKLF is established in twenty instances of killings.

It may, however, be clarified that the observations made herein shall not operate against any person in any other proceedings.

It is abundantly clear from the above discussion and the material on record that the territory of the State of Jammu and Kashmir is an integral part of India. The aim of JKLF is to bring about secession of the territory of the State of Jammu and Kashmir from the Union of India. According to JKLF, the people of the State neither accept nor shall be bound by any treaty or accord or agreement which might have been arrived at without the will of the people of the State. It has been preaching the right of self-determination, and has been inciting youths to resort to armed struggle for the achievement of 'liberation' of Kashmir.

In September, 1988, leaders of the Front, with the encouragement and support of Pakistan and with the

active participation of ISI personnel known to be affiliated to the army of Pakistan, had adopted the strategy to induct large quantities of arms and ammunition, to create disorder, and to cripple the administration in Kashmir by sabotage and subversion. In pursuance of these plans, large number of young men are being taken in batches to POK and Pakistan for training in guerilla warfare, and sent back with large quantities of sophisticated arms, ammunition explosives including AK-47 and Kalashnikov rifles, carbines, stenguns, rockets and rocket launchers etc. for indulging in activities of subversion, sabotage and terrorism in the valley.

For the achievement of its objects, the members and activists of JKLF have been indulging in anti-national and unlawful activities that are discussed in detail above such as organising bandhs and strikes; fanning communal hatred; threatening and calling upon members of State Legislative Assembly to quit; calling for boycott of general elections; declaring India's Independence Day and Republic Day as black days; and unleashing a reign of terror in the valley by launching attacks on security forces and indulging in the most heinous and reprehensible acts of abduction and assassination of large number of public servants and innocent persons in Kashmir. It is, therefore, necessary for the Government to take effective steps for the prevention of unlawful activities of JKLF.

From the evidence on record, I am satisfied that there is sufficient cause for declaring JKLF to be an unlawful association. Consequently, the declaration made in the Government of India, Ministry of Home Affairs Notification No. S.O. 140(E), dated 18th of February 1992 under Section 3(1) of the Act is confirmed.

Signed and delivered

this 12th day of

August, 1992 at

New Delhi.

(JUSTICE ARUN B. SAHARYA)

UNLAWFUL ACTIVITIES

(PREVENTION) TRIBUNAL.

[No. 13014/6/92-K (Do-I)]

MADHUKAR GUPTA, Jt. Secy. (K)

New Delhi.

Dated the 4th September, 1992.

